

**Town of Underhill
Development Review Board Minutes
June 2, 2014**

Board Members Present:

Charles Van Winkle, Chairperson
Penny Miller
Will Towle
Jim Gilmartin
Matt Chapek
Karen McKnight
Shanie Bartlett (Alternate)

Staff/ Municipal Representatives Present:

Sarah McShane, PZA

Others Present:

Martin Danaher (Applicant-1st hearing)
Arnold & Paula Baizley (Applicants- 2nd hearing)
Patrick Lamphere (Applicant- 3rd hearing)
Mike Weisel (Abutter- 2nd hearing)
Dan Clayton (Abutter- 2nd hearing)
Thom Hartswick (Abutter- 3rd hearing)
Karen McKnight (Abutter- 3rd hearing)

- Chairperson Van Winkle called the meeting to order at 6:45 PM.
- Board members discussed using google docs to collaboratively edit DRB documents. Jim Gilmartin will email a test document. Board members were encouraged to try editing the test document prior to the next meeting.
- Board member Will Towle asked whether or not members were still interested in him drafting a standard disclaimer for decisions indicating that the DRB cannot guarantee that all permit conditions will be met with satisfaction. Board members were interested. W.Towle draft language to be included in future decisions.
- Board members discussed the May 5, 2014 DRB minutes. Board member Shanie Bartlett, seconded by Penny Miller, made a motion to approve the minutes as submitted. The motion was passed by all Board members present.
- Chairperson Van Winkle asked for public comment. No public comments were presented.

7:00 PM- 20 Russin Drive- Final Subdivision Review for a 2 Lot subdivision

(RU020) EXHIBITS:

- a. A staff report sent by Zoning & Planning Administrator to the Development Review Board, the Applicants, the Selectboard, the Underhill Jericho Fire Department, and the Conservation Commission Chair;
- b. Martin & Betty Danaher's Application for Subdivision: Final (dated 5-1-14);
- c. Copy of the Subdivision Checklist: Final Hearing;
- d. Copy of the Findings Checklist;
- e. Written request for front setback waiver;
- f. Copy of the ANR Project Review Sheet;
- g. Copy of the Wastewater System and Potable Water Supply Permit;
- h. Copy of the plans prepared by Grover Engineering PC (Project 04009- DWG NO. 1 last revised 10/11/13, DWG NO. 2 date 11/5/04, DWG No. 3 date 11/5/04);
- i. Copy of the Property Subdivision Plat prepared by William Robenstein (Project No. 321-24; dated 10/22/2004);
- j. Copy of the tax map for RU020 indicating the locations of wetland and surface water;

- k. Copy of the ANR Natural Resource Map indicating slope;
- l. Copy of the hearing notice as published in *Seven Days* on 5/14/2014, posted in three public places, and mailed to abutting property owners;
- m. Copy of email correspondence from Everett Marshall regarding Habitat Block designation (dated April 21, 2014);
- n. Copy of the draft minutes from the 6-17-2013 Sketch Plan meeting;
- o. Copy of 5/23/2014 input from the Chittenden East Supervisory Union;
- p. A copy of the procedure checklist for this meeting;
- q. Copy of emailed comments from Pam & Shawn Martell (dated 6-2-2014);
- r. Comments from the Underhill Jericho Fire Department (dated 6-11-2014);
- s. Copy of Shred Right-of-Way and Easement Maintenance Agreement;
- t. Copy of Easement Deed.

****Note:** A site visit at 20 Russin Drive took place at 6:00 PM; those present included Sarah McShane (staff), Martin Danaher (Applicant), and Board members Charles Van Winkle, Matt Chapek, Karen McKnight, Penny Miller, Shanie Bartlett, Will Towle, and Jim Gilmartin. ******

- Chairperson Van Winkle began the hearing by explaining the procedure for final subdivision review, which comes under the 2012 Unified Land Use and Development Regulations and the definition of an interested party.
- Chairperson Van Winkle swore in all speakers and entered exhibits A-T into the record. PZA provided exhibits Q, R, S, T to DRB members earlier in the day.
- Martin Danaher, Applicant, provided an overview of the proposal, which includes creating a 2 lot subdivision on his property at 20 Russin Drive. The applicant stated that the subdivision was previously approved, however he failed to record the Mylar during the allotted time and was required to go through the subdivision process again.
- Chairperson Van Winkle stated that there were several unresolved issues the Applicant was requested to address in his final application. One issue to be addressed was updating the engineering drawings and site plan to indicate the zoning districts.
- Martin Danaher, Applicant, stated that he is requesting a setback waiver from the side property line.
- Chairperson Van Winkle stated that 250' of frontage is required and the proposal only indicates 78' of frontage along the ROW.
- Board member Will Towle asked if there is a current road maintenance agreement.
- Martin Danaher, Applicant, stated that a new road agreement has been drafted and is ready to be signed. He stated that he does not foresee any issues with the road agreement since many of his neighbors are family members and the others want the agreement.
- Chairperson Van Winkle stated that as a condition of approval Lot 1 & Lot 2 will be required to sign the road maintenance agreement.
- Board member Penny Miller stated that Section 8.6 states that the frontage requirement can be waived for lots located on cul-de-sacs and dead end roads.
- Chairperson Van Winkle stated that the applicant is requesting two waivers- one for frontage, and one for the side setback requirement.
- Board members discussed whether or not the private road is required to be brought up to development road standards since more than 4 lots will be served.
- Martin Danaher, Applicant, stated that Russin Drive is roughly 30' wide at the intersection of Rt. 15.

- Board member Will Towle stated that a permit requirement will be to bring the road up to A71 standards subject to a Certificate of Compliance. Since the Applicant has stated that the improvements have already been completed, he would just need to certify that the improvements have been made.
- In regards to the side setback waiver, Board member Penny Miller asked the Applicant if he could relocate the building envelope or property line so that he could avoid the need to request the setback waiver.
- Chairperson Van Winkle stated that there may be technical reasons for the reduced side setback, such as the location of the septic system.
- In the interest of time, Chairperson Van Winkle told the applicant that his application would be continued later in the evening.

7:45 PM- 623 Pleasant Valley Road- Sketch Plan Review for a 2 Lot subdivision

(PV623) EXHIBITS:

- A. Arnold & Paula Baizley Application for Subdivision: Sketch Plan (dated 5/4/14; received 5/6/14);
 - B. A copy of the completed Subdivision Checklist: Sketch Plan;
 - C. A copy of the proposed subdivision plan;
 - D. A copy of property abutters;
 - E. A copy of the notice sent to applicant and property abutters;
 - F. A copy of the warranty deed;
 - G. Copies of the ANR Natural Resources Atlas maps;
 - H. A copy of a zoning map of the property (PV623);
 - I. A copy of the procedure checklist for this meeting;
-
- Chairperson Van Winkle began the meeting by explaining the procedure for sketch plan review, which comes under the 2012 Unified Land Use and Development Regulations.
 - Arnold Baizley, Applicant, stated that he is proposing to subdivide a 27 acre lot off from his property. He has a 60' easement off from Pleasant Valley Road that he uses to access his property. There are three zoning districts on his property. He stated that he has a deed restriction limiting him to subdividing one lot.
 - Board members discussed the frontage requirement. Sarah McShane, PZA, stated that since development is being proposed in the Scenic Preservation zoning district, the frontage requirement is 400 feet.
 - Sarah McShane, PZA, stated that the property is in the current use program and as part of the preliminary application, the board may want to request correspondence indicating that it is okay to subdivide properties in the program.
 - Board member Penny Miller asked if there were any mapped deer yards on the property. Sarah McShane, PZA, will look into whether or not there are any documented deer yards on the property.
 - Chairperson Van Winkle asked for public comment.
 - Mike Weisel (PO Box 71, Underhill Center, VT 05490- Abutter) stated that he does not have any problems with the subdivision proposal. He stated that he does not foresee potential for soil erosion and that the property was unlikely a mapped deer yard.

- Dan Clayton (PO Box 187, Underhill Center, VT 05490- Abutter) stated that he wanted to attend the meeting to view the subdivision proposal. He also stated that he has no objections to the proposal and it appears to be low impact.
- Chairperson Van Winkle asked for final comments and whether or not the Board had enough information.
- Board member Will Towle stated that he felt the property met its frontage requirement from the parcel on Pleasant Valley Road (PV621). He stated that he believes the intent of the frontage requirement was to require appropriate spacing of driveways along Pleasant Valley Road.
- Board members asked the Applicant whether or not the driveway is currently shared with other property owners. The Applicant stated that he currently does not share the driveway.
- Board members discussed the issue of frontage and agreed that the DRB could waive the requirement since the lot is located at the end of a road.
- Board member Will Towle made a motion, seconded by Matt Chapek, to accept the proposal, to classify it as a minor subdivision, and that the applicant does not have to show 400 ft of frontage on subsequent subdivision plans. The motion passed by all Board members present.
- Board members discussed the pros and cons of combining the preliminary and final subdivision hearings.
- Board member Will Towle made a motion, seconded by Penny Miller, to grant the Applicant's request for a waiver to combine the preliminary and final hearings. The motion did not pass (FOR: Miller, Gilmartin, Chapek; AGAINST: McKnight, Bartlett, Towle, VanWinkle). Applicant will be required to have both a preliminary and final subdivision review hearing.
- Arnold Baizely, Applicant, asked whether or not he had to indicate a building envelope on the subdivision plans. Board members stated only if the applicant so desired.
- PZA will draft a sketch plan review letter to be mailed to the applicant within 15 days.
- The sketch plan meeting ended at 8:30 PM.

8:31 PM- 108 Beartown Road- Sketch Plan Review for a 2 Lot subdivision

(BE108) EXHIBITS:

- A. Luella Lamphere Estate (c/o Pat Lamphere) Application for Subdivision: Sketch Plan (received 5/7/14);
 - B. A copy of the completed Subdivision Checklist: Sketch Plan;
 - C. A copy of the proposed subdivision plan (Drawings 1 of 2 and 2 of 2, dated 4-2-2014);
 - D. A written project description;
 - E. A copy of the tax map;
 - F. A copy of the property deed;
 - G. A copy of the notice sent to applicant and property abutters;
 - H. Copies of the ANR Natural Resources Atlas maps;
 - I. Copy of the procedure checklist for this meeting;
-
- Chairperson Van Winkle began the meeting by explaining the procedure for sketch plan review, which comes under the 2012 Unified Land Use and Development Regulations.
 - Board Member Karen McKnight excused herself from the meeting.
 - Patrick Lamphere, Applicant, provided an overview of the proposal. He stated that the property is 15 acres and belongs to his mother's estate. He would like to subdivide a 10 acre lot, with the

intent of possibly further subdividing the 10 acres in the future; however this application is for a 2 lot subdivision.

- Board member Penny Miller asked about the discrepancy in acreage. Sarah McShane, PZA, stated that the town has the property listed at 10.43 acres however the Applicants' survey indicates the property is 15 acres. She stated that she checked with the Listers' Office regarding the discrepancy in acreage and the Listers' stated that it was somewhat common for such discrepancy.
- Sarah McShane, PZA, stated that an Access Permit will be required if the Applicant was proposing a curb cut to the town road. She stated that voters approved the ballot measure on Town Meeting Day that corrected the zoning district boundaries on the property. She did not see any environmental constraints that would prohibit subdivision.
- Chairperson Van Winkle asked for public comment.
- Karen McKnight (164 Beartown Road-Abutter) stated that she was concerned with the uplands project and animal crossing issues.
- Thom Hartswick (130 Beartown Road- Abutter) stated that he would be more concerned if the proposal was for two five acre lots.
- Chairperson Van Winkle asked if the Board had enough information to make a decision.
- Board member Will Towle made a motion, seconded by Penny Miller, to accept the sketch plan and to classify it as a minor subdivision. The motion passed by all board members present.
- Board member Will Towle made a motion, seconded by Matt Chapek, to allow the applicant to combine preliminary and final subdivision review if he so chooses. The motion passed by all board members present.
- PZA will draft a sketch plan review letter to be mailed to the applicant within 15 days.
- The sketch plan review meeting ended at 8:50 PM

8:51 PM- Continued: 20 Russin Drive- Final Subdivision Review for a 2 Lot subdivision

- At 8:51 PM Board members continued the review of the application of Martin Danaher for a 2 lot subdivision at 20 Russin Drive.
- Board member Penny Miller asked the Applicant about the Class 2 wetlands on the property.
- Martin Danaher, Applicant, stated that the man-made pond on the property is considered a Class 2 wetland.
- Board member Penny Miller asked about the utilities and whether or not they will be buried underground.
- Martin Danaher, Applicant, stated that the utilities will be above ground and will follow the driveway until approximately the top of the hill, at which point they will be buried up to the house.
- Board member Penny Miller stated that it is a re-subdivision of a subdivision.
- The Applicant stated that it is part of the Russin subdivision from 1996 or 1997.
- Sarah McShane, PZA, stated that she had not reviewed the conditions of the original subdivision permit.
- Chairperson Van Winkle stated that some older planned residential developments (PRD's) had restrictions that no further subdivision could take place.
- Sarah McShane, PZA, will review the zoning files and report back to the DRB regarding the conditions of approval for the original subdivision.
- Board member Penny Miller asked whether or not erosion control measures need to be indicated on the site plan.

- Chairperson Van Winkle stated that the site appeared to be dry and that the Applicant would be the receiver of any erosion impacts since he owns the downslope property.
- Penny Miller stated that it may be beneficial to have erosion control measures around the building site during construction and to have the setbacks indicated on the site plan.
- Chairperson Van Winkle stated that there are still unresolved issues to be addressed. The applicant is requesting a side setback waiver and a frontage waiver.
- Board member Will Towle stated that if the site plan indicates an area as "open space", it designates that area to be left open, restricting future development. He stated that if something is indicated on the plan, it is part of the plan. Depending on the intention of the Applicant, he should reconsider items listed on the site plan.
- Chairperson Van Winkle stated that the DRB approves the plat and the engineering drawings are often incorporated by reference in the decision.
- Chairperson Van Winkle provided an overview of the application process. The Applicant is requesting two waivers- one for frontage and one for a reduced side setback; he has an approved wastewater permit; the Applicant provided testimony that the road is constructed to be at least 24' at the intersection, and has submitted a draft easement and road maintenance agreement. One outstanding issue is for PZA to research whether or not there are any previous subdivision conditions that would restrict re-subdivision.
- Chairperson Van Winkle stated prior to occupancy, the road agreement with Lot 1 & Lot 2 must be recorded as part of the deed.
- Board member Will Towle stated that setback waivers should not just be granted when requested. The Applicant should make a strong case of why it's necessary.
- Chairperson Van Winkle stated that the Applicant is creating his own hardship and that he could redraw the property line or building envelope to meet the required setback. He stated that he needs to have a stronger technical argument supporting his waiver request.
- Board member Penny Miller made a motion, seconded by Karen McKnight, to continue the applicants hearing on June 16th at 7:00 PM. The motion passed by all members present.
- The DRB closed the hearing at 9:38 PM and will continue the hearing on 6/16/2014 at 7:00 PM.

Meeting adjourned at 9:40 PM.

Submitted by:

Sarah McShane, PZA

These minutes of the 6-2-2014 meeting of the DRB were accepted

This 17 day of July, 2014.



Charles Van Winkle, Chairperson

These minutes are subject to correction by the Underhill Development Review Board. Changes, if any, will be recorded in the minutes of the meeting of the DRB.